S.B. Civil Writ Petition No.4900/2000
Sube Singh Vs. The State of Raj.

20.02.2007

***Hon'ble Mr. Justice Mohammad Rafiq***

Shri Rajesh Pathak for petitioner.
Shri B.S. Chhaba, Dy. GA

In this writ petition, the petitioner has challenged the notice dated 16.3.2000 passed by the D.T.O., Alwar whereby demand of Rs.84,305/- has been raised against him for payment of the special road tax and the order dated 23.2.2000 whereby the action has been initiated for recovery thereof.

Contention of the learned counsel for the petitioner is that route no.2 existing between Bardod and Riwari with regard to which the aforesaid demand has been raised, was cancelled because the

revision petition filed thereagainst was allowed in favour of the RSRTC. The petitioner did not further challenge the order passed in such revision petition and therefore there was no question of his paying of the passenger tax.

Shri B.S. Chhaba, the learned Dy. Government however contends that in view of alternative remedy of appeal under Section 14 of the Rajasthan Motor Vehicles Taxation Act, 1951, the present writ petition be dismissed.

Shri Rajesh Pathak, the learned counsel for the petitioner further submitted that since writ petition has become pending before this Court for so long, it can be decided on merits as appeal against the order passed way back on 6.3.2002 is now barred by limitation.

Heard learned counsel for the parties and perused the material on record.

I am inclined to uphold the objection raised by learned Dy. Government Advocate that the petitioner should first approach the appellate forum because I do not see any extraordinary reason to entertain the writ petition against the demand notice challenged directly before this Court. This is all the more so when the issue which the petitioner is seeking to raise would require inquiry into the factual aspects and the appellate authority would be in a better position to appreciate such factual controversies. The appellate authority may however not revise to entertain the appeal which the petitioner

now filed as being barred by limitation, therefore, I direct that if the petitioner files an appeal within 45 days from today, the same shall be considered and disposed of by the appellate authority in accordance with Section 14 of the Rajasthan Motor Vehicles Taxation Act, 1951.

With these observations, the writ petition is dismissed.

**(Mohammad Rafiq),J.**

**Rs/-**